

**ADDENDUM TO THE MEDICAL MARIJUANA LAND USE REGULATIONS
ORDINANCE NEGATIVE DECLARATION AND ADDENDA THERETO**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the Medical Marijuana Land Use Regulations Ordinance Negative Declaration, File No. PP11-039, and addenda thereto because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

File No. PP17-007: The project proposes changes to the San José Municipal Code including:

- (1) Adoption of an ordinance of the City of San José amending Sections 20.10.040, 20.50.100, 20.70.100, 20.80.760, 20.80.765, 20.80.775, 20.80.780, 20.80.790, 20.100.1530, 20.100.1535, and 20.100.1540 of Title 20 (Zoning) of the San José Municipal Code relating to medical and non-medical marijuana to change “medical marijuana collective” to “medical cannabis collective,” “medical marijuana collective cultivation site only,” to “medical cannabis collective cultivation site only,” “medical marijuana collective dispensary site only,” to “medical cannabis collective dispensary site only,” and to add “medical cannabis business,” and “non-medical cannabis business” as newly enumerated restricted uses in specified Industrial Zoning Districts and the Downtown Primary Commercial Zoning District and to make other technical, formatting, non-substantive changes.
- (2) Adoption of an ordinance of the City of San José amending Title 6 (Business Licenses and Regulations) of the San José Municipal Code by amending Chapter 6.88 to add and amend regulations pertaining to Medical Marijuana Collectives, and making other technical, non-substantive, or formatting changes. These changes include to allow each Registered Collective to conduct non-medical cannabis activities; allow each Registered Collective to deliver non-medical cannabis to customers and establish the parameters under which deliveries could take place; and approve technical changes to update the Code to align with new state laws, amend not-for-profit requirements, update definitions, and make other administrative changes.

Location: Citywide

The environmental impacts of this project were addressed by the Negative Declaration entitled, "Medical Marijuana Land Use Regulations Ordinance," and findings were adopted by City Council Resolution No. 75984 certified on September 13, 2011, and addenda thereto. Specifically, the following impacts were reviewed and found to be adequately considered by the Negative Declaration (ND):

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| <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Population and Housing |
| <input checked="" type="checkbox"/> Agriculture & Forest Resources | <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input checked="" type="checkbox"/> Public Services |
| <input checked="" type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Hydrology & Water Quality | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Land Use and Planning | <input checked="" type="checkbox"/> Transportation/Traffic |
| <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Utilities & Service Systems |
| <input checked="" type="checkbox"/> Geology and Soils | <input checked="" type="checkbox"/> Noise | <input checked="" type="checkbox"/> Mandatory Findings of Sig. |

PURPOSE OF ADDENDUM

The CEQA Guidelines Section 15162 and 15164 state that when an ND has been adopted for a project, no subsequent Environmental Impact Report or ND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that either 1) substantial changes are proposed to the project which will require major revisions to the previous ND due to new or substantially more severe significant effects, 2) substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous ND due to new or substantially more severe significant effects, or 3) new information of substantial importance that was not

known and could not have been known previously with the exercise of reasonable diligence shows that the project will have one or more significant effects or substantially more severe effects than disclosed in the previous ND, or a mitigation measure or alternative that is new or is now feasible, when previously found infeasible, would substantially reduce a significant effect and the project proponent declines to adopt it.

The proposed project includes ordinances amending Title 20 – Zoning of the San José Municipal Code and Title 6 – Business Licenses and Regulations.

ANALYSIS

In 2011, the City Council adopted a ND for which an Initial Study was prepared that evaluated the potential environmental impacts of land use regulations for Medical Marijuana Collectives registered in San José (File No. PP11-039, Resolution No. 75984). The Initial Study and ND were circulated for public and agency review between May 25, 2011 and June 15, 2011. This ND was subsequently addended in accordance with CEQA to document and disclose minor changes to the above-referenced regulations (File Nos. PP11-076, PP14-030 and PP16-076).

The proposed project amends Title 20 – Zoning Code provisions pertaining to Medical Cannabis (Marijuana) Collectives, Medical Cannabis Collectives Cultivation Sites Only, Medical Cannabis Collectives Dispensary Sites Only, Medical Cannabis Businesses and Non-medical Cannabis Businesses to align with direction from the State (i.e. Proposition 64, Adult Use of Marijuana Act). The City’s consideration of non-medical cannabis sales for Registered Collectives require changes to the Zoning Code. The proposed ordinance includes amendments the Zoning Code provisions relating to medical cannabis and non-medical cannabis by: i) changing the term “marijuana” to “cannabis” to match state law; ii) adding “Medical Cannabis Business” and “Non-Medical Cannabis Business” as newly restricted uses; and iii) making other technical, non-substantive, or formatting changes.

The proposed project also amends Title 6 – Business Licenses and Regulations provisions regulating the operations of Medical Marijuana Collectives to allow the existing 16 Registered Collectives to conduct specified non-medical cannabis activities, if they obtain a State license to do so. Additionally, the proposed ordinance allows the delivery of non-medical cannabis to customers and establishes the parameters under which deliveries could take place. The Municipal Code will be made to align with new state laws, amend not-for-profit requirements, update definitions, and make other administrative changes.

Currently the City does not allow non-medical cannabis businesses to operate in the City. The proposed ordinance would only allow the 16 existing Registered Medical Marijuana Collectives to obtain a state license and provide non-medical cannabis to people who are age 21 and older. This proposal would not open Cannabis Registration to new businesses or collectives. It would not change the zoning districts or number of sites where cannabis is dispensed.

The physical environmental changes that would result from the proposed project will be indirect, in that existing Registered Collectives will have the option to operate differently. These indirect effects will be realized as changes to the operations of existing Registered Collectives. Thus there are no direct physical changes to evaluate concerning specific sites and facility operations, and the environment impacts resulting from the proposed ordinance amendments will be indirect in nature. Additionally, there was no assumption of volume of transactions or cultivation areas per Registered Collective in the project analyzed in the ND adopted by City Council Resolution No. 75984 certified on September 13, 2011. The availability, price, and demand of cannabis fluctuates in often unpredictable ways, such as in response to crop losses from catastrophic events like region-wide wildfires. Therefore, an assessment of if or how operations at Registered Collective sites would change would be speculative in nature.

The proposed ordinance involves a set of changes to existing regulations, but does not involve any activities by the City that will result in any changes to the size, location, or number of Registered Collectives as analyzed in the ND. Thus the proposed ordinance would not it result in an increase in the magnitude of any environmental impact previously identified in the ND and would not result in any significant environmental

impacts. To the extent a Registered Collective would propose exterior modifications to a site, would be subject to future discretionary review and project-level, site-specific environmental review under CEQA by the lead agency.

The City has concluded that the proposed ordinance would not result in any new impacts not previously disclosed in the circulated previously approved ND; nor would it result in a substantial increase in the magnitude of any significant environmental impact previously identified (none were identified). For these reasons, an addendum to the approved ND would be sufficient to meet the requirements of CEQA. According to CEQA Guidelines Section 15164(c), an addendum need not be circulated for public review but can be included in or attached to the final adopted negative declaration.

The proposed project is consistent with Statutory Exemption pursuant to Section 26055(h) of the California Business and Professions Code, which states that without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

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10/30/2017
Date

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